

Tronox Joint Agency Meeting - Notes

March 9th 1:30- 5:00 pm March 10th 9:00 – 5:00 pm

1001 Indian School Road NW, Conference Room 133 BIA 1, Albuquerque, NM 87104

Overall Outcomes for this meeting:

- 1) Provide an overview of all the Tronox mines, U.S. EPA staff assigned, and anticipated NNEPA resources/expertise required;
- 2) Continued discussion on Navajo Nation workforce development;
- 3) Create a shared calendar of upcoming events, meetings, fieldwork, project activities, etc. so that we all get a sense of what is happening where and when;
- 4) Continue our strategic planning efforts and continue to build our Tronox joint agency working team and address possible barriers to success;
- 5) Better understand our Tronox related work in FY16 and FY17 and how the contracts processes might affect that work; and
- 6) Clarify our working relationship questions (e.g., each agency's expectations, roles and responsibilities, communication, and meeting logistics/ground rules).



Summary

Approximately 50 people gathered on March 9-10, 2016 in Albuquerque for the Tronox Joint Agency meeting. On the first day, the focus was on sharing current project status and identifying key activities for the remainder of 2016. They created a visual calendar. On Day 2, the group learned more about the Federal and Navajo Superfund programs; began discussing alternative disposal option; heard information on the 5 year plan and contracting and communications plan and brainstormed possible FY17 projects.

Action Items identified during the meeting

What	Who	By When	Status
1. Schedule and have meeting to have discussion on cleanup options and address overarching questions; Identify others to be involved (e.g., AML, Uranium Commission)	Mark (lead), Henry, Dr. Benn, Diane	May	Scheduled for June 14 th
<u>Five Year Plan</u>	All RPMs	3/18	Complete
2. Provide approximate numbers for Objective 2 (use what is defined in the settlement) and send to Chip			
3. Provide comments to Chip on proposed objectives for 5 year plan	All	3/18	Complete
4. FY17 projects			
a. Develop and distribute a template for submitting projects	Chip	3/18 4/29	Complete In progress
b. Submit ideas for future projects (FY17 and beyond)	All (Tronox team)		
c. Have a follow-up call to discuss	Chip/All	5/20	TBD
d. Bring Dariel up to date on how to suggest projects	Chip/Dariel	3/18	Complete
5. Identify how to share contract information with the Navajo Nation President and Council	Clancy	Before 4/19 mtg	In progress
6. Provide Dr. Benn w/number of Navajo companies who attended the Industry Days in Albuquerque and Window Rock	Chip, Autumn	3/18	Complete
7. Provide suggestions to Autumn of possible locations for Industry Days	all		Ongoing

What	Who	By When	Status
8. Provide dates to Autumn of different Agency meetings	Cassandra	3/18	Complete
9. Find out if NEPA and/or USEPA Tronox funds can be used to fund Uranium Commission	Laurie Williams	3/18	Complete
10. Transcribe notes of this meeting and send to Chip	Lori	3/25	Sent notes to Chip on 3/28. He will distribute meeting notes and materials
11. Transcribe calendar actions	Chip	4/3	In progress
12. Identify date and location for next Team Tronox meeting	Chip	4/1	Complete (June 15, 16) Albuquerque

Bike Rack

Possible topics for our next meeting in FY16 Quarter 3

- Multiyear projects
- Community Involvement
- FY17 projects

Comments

Last two weeks of May is not good. June might be okay, having it in Albuquerque works for people.

Wednesday - March 9th 1:30- 5:00 pm

Opening



The meeting opened with introductions from the participants (see sign in sheet) and welcoming comments from Arbin Mitchell, (Navajo Nation Chief of Staff) and Dr. Benn (Navajo Nation EPA)), Clancy Tenley (USEPA R9) and Ben Banipal (USEPA R6). Lori Lewis, our facilitator reviewed the agenda and logistics for the meeting. She reminded everyone to define acronyms and announce themselves so that the people calling in would know who is speaking. Several people from R9 and NEPA called in over the 2 day meeting. Chip Poolinelli reviewed action items from the December meeting.

General Tronox Project(s) Update –

Staff provided an overview and status of 2016 Tronox mines projects. (Please see PowerPoint slide file for presentation details).

General Tronox Project Status

Chip provided an update which included

- A breakdown of the Tronox settlement;
- Defined “Navajo Area Uranium Mines” and “other mine” status; and
- Introduced objectives for the inclusion of Tronox into the 5 Year Plan.
 - align objectives with the existing 2014-2018 plan.
 - Preparation of next plan to cover the period beyond 2018

General Comments

- for the meeting between R9 RA and the Navajo President in April
 - include the 5 year plan info
 - plus any additional objectives that this group identifies at this meeting

Specific Project updates

Staff reviewed Tronox project Status by Regional Area (i.e. significant accomplishments, community/stakeholder involvement, expertise and resources needs, key activities, U.S. EPA and NN staff assignment, and develop Tronox Activity Calendar, and communication/coordination)

Northern Agency (Cove)

Wilson Y./Gaelle G./Randy N.

MCAP

- 3 teams could add a 4th person to each team (e.g. Navajo staff and intern); person would need local knowledge. The teams will be working in the field for 2 weeks (maybe 14 days, e.g., might include working on Saturday and Sunday); intense work

Community Involvement

Overview and updates were provided by Secody, Priscilla and Elsa from USEPA R9.

- Have monthly meetings – attendance by NEPA and/or NAML
- Review of documents (technical); hydrogeological background helpful
- Helpful to have CI dedicated person from NEPA/NAML; assist with group interviews and transport of community members; Navajo speaking

Comments

- How is outreach for internships done?
 - Partnerships with Dine College
 - Could also use help from NNEPA every 2 weeks
- Working with NAU internship programs
 - April 1st proposal (Navajo/Tronox)
 - June proposal
 - Focus is to help interns get trained

Eastern Agency (Ambrosia Lake)

Warren Z./Jon R./Mark P. provided an update



Resources needed/Opportunities for NEPA Engagement

- East - Tech do reviews for EE/CA
- West – Tech do reviews for EE/CA
- GW – on the model; tech support (e.g., hydrogeology, geochemistry, geology)
- Coordination with NDOJ

General Comments

- Collaborate with R9 (to get Navajo information) and NEPA etc.

Eastern Agency (North East Church Rock Quivira Mines) –

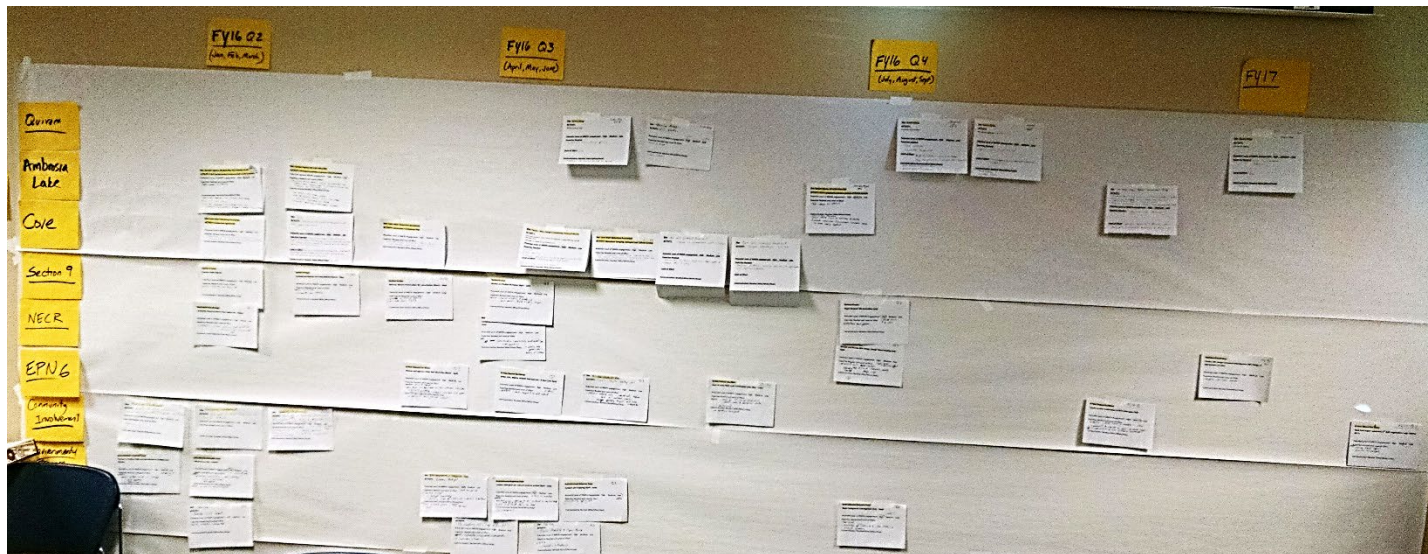
Mark R. provided an update (see slides)

Resources needed/Opportunities for NEPA Engagement

- Housing
 - Someone like Vivian; Navajo speaking
- Vent Hole/Removal
 - Fieldwork; opportunities for training interns
- EE/CA
 - Tech review
- CI

Data Management Portal

Randy N. provided a quick update



Day 1 Closing

Closing Comments

- Dr. Benn suggested integrating the Navajo Fundamental law slide into the site presentation and updates and talked about seeking guidance from traditional healers.

Thursday March 10th – 9:00 am – 5:00 pm Facilitator – Lori Lewis

Opening

Lori reviewed Day 2 agenda and logistics

Decisions and Actions: The Federal Superfund Process, Comparing Authorities, How We Make Decisions

Jeff Dhont, USEPA R9 gave a presentation.

Comments/Questions

- Is there a voluntary component?
- We can see that the CERCLA process is very complimentary with Fundamental law
- Communities will want to know the options and the reasons that certain options have been chosen
- What role does history of a site play?
 - We can look at all the work and events that have happened
- Sites don't have to be on the NPL in order to be considered a Superfund site and do remediation and removal work
- We have identified 46 of the 523 sites as priority mines. Some of the 523 sites were never mined and show no exposure risk.

Navajo CERCLA and how it applies to the work we do? -

Presentation by Dave Taylor, Navajo DOJ (see attachment for references that Dave used)



Dave shared some information about his background working as an attorney in Missouri before beginning his work at Navajo DOJ, eleven years ago.

He shared information about Navajo CERCLA and the Tronox settlement

Key points

- Navajo CERCLA is modeled after Federal CERCLA but there are differences
- Some of the differences include
 - Flexibility is written into the law. Although Federal CERCLA may say that they are flexible, they are less flexible due to forms they use and the process that has been used
 - Public participation is not an option in Navajo law. The public will participate regardless of how it is written into the law. We are here today because individual people raised the issues and brought the AUM issue to the attention of the United States
 - Section on voluntary cleanup has built in flexibility to work with PRPs. This can allow a PRP to move forward more quickly and cut back on some of the governmental bureaucracy. This is an area we can work more with USEPA.
 - The main difference between US money and Navajo money. US money must be spent on the mines site specified by the Tronox settlement. Navajo money have broader legal limitations and can be spent on other related activities (e.g., Navajo EPA Superfund program, etc.)
 - Other differences, Navajo CERCLA can also be used to address problems from petroleum products and on cultural resources damages.
 -
- Tronox settlement Dispute Resolution clause refers to Robert Yazzie's explanation of "Talking it out"
 - This is similar to the old Navajo way of peacemaking. There are no lawyers and people talk things through until there is resolution/agreement. There is a good book on this.
- There is one settlement; the 2010 settlement. This set forth both the percentages of fund allocation and the limitations of spending by each party. In addition to the Navajo Nation, there were additional claimants (e.g., 20 states, thousands of private suits, multiple municipalities, etc.) involved. The USDOJ worked with, gathered individual claimant information and convinced everyone regarding the percentage allocation. This involved a level of trust. Trust was built at Navajo due to the people who came out and talked with people to hear their stories

Comments

- How does Navajo CERCLA interact with Navajo historic preservation agency?
 - Cultural resources can apply to personal cultural resources (e.g., access to land, grazing, etc.)

Working Together – Alternative Disposal Options Discussion

Mark provided an overview of possible options. By the end of the discussion the group had agreed that a smaller group will meet to discuss this further (see action items)

Questions/Comments

(Overarching questions that the group will need to discuss are in Bold)

- One issue is **What is Background?** Henry Haven (who was not present) has spoken about this question. Dr. Benn shared some of his thoughts. *There are different methodologies and rationale for each of the definitions of background. We are on Navajo land and should use Navajo standards which states "return to original state" and not talk about limits or ranges. The people who live in those areas are the real authorities.* USEPA agrees. It is important to talk about this.
- One question that comes up is **Where is point source?** and **Where should cleanup start?** (i.e., risk based cleanup). This is an area that CERCLA can conflict with Fundamental Law.
- **What is clean?**
- **How do we deal with naturally occurring outcrops?**
- CERCLA allows cleanup NOC (?) which have been disturbed but forbids cleaning up NOC that have not been disturbed

The group identified some potential options. The "No Action" is not considered a feasible option and can be thrown out. Other feasible Options include the following:

From least to most expensive. All meet Federal CERCLA, many permutations and different pros and cons.

- Cap on site
- Build fully containerized cell on site
- Local/Regional Cells
- Take off site

Other comments

- As far as we know there is no good bioremediation option
- The community will ask many questions, e.g., Why don't you treat it? Why don't you plant hemp everywhere?
- The state of New Mexico has cleanup levels and has gone through cleanup at several sites
 - Lots of things need to be weighed in making decisions
 - To get to the State of New Mexico guidance document
www.nmmines.com
 - ⇒ Programs
 - ⇒ Mining act rec. program
 - ⇒ Guidance and guidelines

It is important to have the conversations because we have several sites that will be moving towards cleanup in the next few years including

- Share EE/CA draft for Quivira (August 2016)
- Ambrosia Lake in 2016 CYQ3
- Other responsible parties beginning to write EE/CA this summer and they will want input.

Proposed Objectives for the inclusion of Tronox into the 5 Year Plan

Chip reviewed the Tronox proposed objectives for 2016 through 2018.

Objective 1 – general group agreement on including this in the 5 year plan

Comments

- Council often asks about aquifers protection plan. Could we include additional language to address
 - Aquifer protection plan
 - Non potable water sources
 - Sampling groundwater and surface water
- We could look at NM documents for language samples
- Maybe we could broaden language to define water sources
- Add the environment from the impacts of Tronox mines
- Add “considering irrigation”
- Look at connection w/Red Rock

Objective 2 general group agreement on including this in the 5 year plan

- Include the numbers (EE/CAs, cleanup, etc.)
- Good to know how many are surface and how many underground
- Change to end of CY2018

Next Step: RPMs will send Chip the information

Objective 3 general group agreement on including this in the 5 year plan

Objective 4 general group agreement on including this in the 5 year plan

Comments

- Include communicating on the radio and other media, libraries, stakeholder mtgs, etc.
- Ask CIC's for additional information re. language
- Goal – make it easy for community to get info
- Include that R9/R6 will coordinate
 - Orientation for newly elected officials

Objective 5 general group agreement on including this in the 5 year plan

Comments

- How do we interface with the Navajo workforce Development agency
 - Dariel could look at this
- Include NTU and Dine College and other partnerships
- This is one of the Presidents four tenants

Comments

We need to also present this information to

RDC - 3/29

President – 4/19

Council – 4/19

Add another Objectives

Objective 6 – Data Sharing - general group agreement on adding this as a new objective in the 5 year plan

Tronox Project Approval Process, Program Management Plan, and Financials

Chip provided a review of the

- Project approval process.
- Program Management Plan (PMP) approach.
- FY2015 funding/expenditures.

Comments

- Kickoff meeting with contractor, Navajo and PA hopefully by April
- Our assumption is that contract will sub to local resources
 - RFP includes “familiar with Navajo culture and government”

Next Steps

- Set up call with NEPA and R6 to identify logistics and who should be invited to kickoff meeting

FY2015 Annual Report

- Complete snapshot of FY15 work; include vision statement that group developed in Dec 2015
- Currently gathering info.
- Currently scheduled to have completed by end of April

Tronox Contracting Overview and Communication Plan –

Autumn reviewed the contracting process.

Comments

- People are giving Dr. Benn business cards
- Important to provide information to Navajo companies on small business programs (Small business association runs these e.g., 8A and Hubzone)
- If companies are in these programs it is the easiest way for EPA to award contracts
- The amount of bond requirement will be discussed later
- Companies have reported their liability insurance has increased when they report they are doing AUM work

- Important to bond in case companies walk off

Contracting communication plan.

Comments

- Keep NDOL in the loop
- Council is always asking questions
- Jared can share contract schedule
- Dr. Benn thought this presentation would be useful for others to hear

Market research and Navajo business outreach.

Comments

- Planning additional industry days
- Good to hold them in each of the five agencies
- Primes can sub to smaller companies
- At industry days good to stress partnerships and outreach

Autumn ended this session by reviewing the upcoming contract milestones.

FY17 Suggestions on Proposed Projects

The group identified the following potential FY17 projects and timelines for the approval process.

Ideas

- New wells to replace decommissioned wells (there will be new signs and information in the summer)
- Aquifer Protection plan
- Cove groundwater investigation – USGS pilot study – Wilson will explore doing in FY16
- Public Education events
- Check with communities on their ideas
- Identify opportunities for interns
 - Tie in scholarships
 - Work w/USGS
- Uranium Commission
 - Can we use Navajo Tronox funds?
 - Find out if USEPA Tronox funds can be used. Laurie Williams will follow up on these questions
- NDOJ paralegal or legal assistance

Closing and Next Steps

The group reviewed the action items and bike rack ideas. (See summary at the beginning of this document for details)

Lori asked the group to do a quick evaluation of the meeting.

What worked	What we could change for our future meetings
We were on time and covered a lot of topics and information	Have Dariel and NEPA Superfund staff present; include other technical staff as appropriate
Having a neutral facilitator	Respect each other's time (and be here at the beginning)
Liked the consistent style of presentation e.g., concise 5 slide format for each site and time for clarifying questions and comments	Break out session in our smaller groups to have deeper conversations
Time spent discussing and learning about the work we are doing	Dariel suggested having time with Will and Wilson
Having guests e.g., Dr. Lewis	Have Navajo identify and lead topics
	Better technology (e.g., big screens, VTC, internet access, etc.)
Having coffee/food/snacks/chocolate	Possibly invite a community representative to present and attend part of the meeting
The room worked	Hold a meeting in the community and have a site visit
Having the other Navajo agencies here	
Having the New Mexico state agencies participate	
Seeing the big picture and the details	
Heard and felt the importance and legacy and Fundamental Law	
Learning the different processes for what we are doing	
Looking at this as a team; everyone plays a role	

We ended with closing comments. Key points made were

Dr. Benn

I was new last year and this meeting felt different. I think it was a productive meeting but there is still a lot we need to talk about. This shows how we can work together to get things done, Thank you, thank you, thank you.

Clancy

Thank you. We have continued to build our partnership. If you look back a year ago you can see that it has taken a lot of work. We will continue to be high functioning; we have made progress and can see progress in our future.

Ben

Thank you. The commitment by everyone here and the commitment you show to the people is evident. You took this job because you have a passion for public service. Let's thank all of our presenters.